SB 784 Bill Analysis

Senate Bill 784 (Committee on Elections)
Campaign Contributions and Expenditures
Version: Amended in Sen. March 29, 2005
Status: In Senate Elections Committee 4/6/05

Summary
This bill extends the reporting threshold and deadline for payments for legislative, governmental, or charitable purposes made “at the behest of” an elected official from $5,000 to $7,000 and from 30 days to 90 days, respectively. It also specifies that such a payment made in response to a press release, interview, or other media-related communication from an elected official is not required to be reported. In addition, it adds that an elected official is required to report such a payment only if he or she knows, or has reason to know, that a payment was made at his or her behest.

Recommendation
Staff recommends the Commission take a position of “neutral” on the bill.

Background
Section 82015 defines the term “contribution” and distinguishes payments made to a campaign committee from payments made “at the behest of” the elected official in support of a legislative, governmental, or charitable cause. These payments are considered neither contributions nor gifts, but the PRA requires elected officials to report them separately and sets reporting thresholds and deadlines accordingly. Currently, any “behested” or “co-sponsored” payment of over $5,000 from a single source must be reported within 30 days of when the threshold is reached.

SB 784 would extend the threshold to $7,000 and extend the reporting deadline to 90 days. It would also add a provision to exempt an elected official from being required to report a payment made in response to a press release, an interview with the official, a public service announcement that is broadcast or printed by members of the media, or in a communication that includes the official’s name within a list of other individuals.

This bill has an urgency clause that states that it will go into effect immediately after it passes the legislature and is signed by the governor.

Analysis
The exemption of legislative, governmental, or charitable payments made “at the behest of” an elected official was added to the PRA in 1997. The provision applies in cases where an official organizes or co-sponsors an event or cause, such as a town hall meeting, a health fair, or food drive, and seeks contributions from businesses or individuals to fund the activity. There are a substantial number of $5,000 “behested” payments that were made and reported to the Commission in 2004. Under SB 784, these $5,000 payments would not be required to be reported, as the new threshold would be at $7,000. However, many of the officials who reported these $5,000 payments also reported payments under $5,000, even though reporting is not

required for amounts under the threshold. So, it is unclear how much of an impact this shift to a $7,000 reporting threshold would have on the level of reporting, since many officials may continue to report amounts that are under the threshold.

Supporters argue that these contributions are made for activities that benefit the community, and reporting should not be difficult for the elected official who is helping to provide such a benefit. The $5,000 threshold was set in 1997, which, adjusted for inflation, would equate to approximately $5,900 in 2005, so the proposed $7,000 is roughly a cost-of-living adjustment. Also, given the amount of work that goes into planning these activities, officials need more than 30 days in which to report the behested payments. In addition, officials should only be required to report those contributions of which they are aware (or should be aware), and should not be required to report contributions made in response to a general communication that is sent out to the masses, such as a press release, an interview with the official, a public service announcement that is broadcast or printed by members of the media, or in a communication that includes the official's name within a list of other individuals.

Staff's concerns focus on the fact that the current limit of $5,000 is already a fairly high disclosure threshold, particularly compared with the $100 reporting threshold for campaign contributions, and especially at the local level. In addition, 30 days is ample time in which to fill out a form to report the payment. Further, the last two provisions – allowing exemption from reporting behested payments when the official is not aware of the payment and allowing an exemption when the payment was made in response to a public communication – may become a loophole for officials to avoid this reporting requirement.

There is no requirement in the bill for the Commission to make biannual cost-of-living adjustments to the new reporting threshold. Although the bill itself is arguably a cost-of-living adjustment, staff suggests that this be added to the bill in order to be consistent with the adjustments that are made to contribution and voluntary expenditure limits and to keep the monetary amount constant over time.

Fiscal Impact
The fiscal impact on the Commission is minimal, consisting of staff time in amending forms and manuals and in amending the regulation to reflect the adjustment.